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UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

LISA KAY CAMP,

Defendant.

ED CR No. 18-200-SVW-1

GOVERNMENT'S SENTENCING POSITION
FOR DEFENDANT LISA KAY CAMP

Sentencing Date: 10/19/2020
Sentencing Time: 11:00 a.m.
Location: Courtroom of the
Hon. Stephen V. Wilson

Plaintiff United States of America, by and through its counsel of record, the United States Attorney for the Central District of California and Assistant United States Attorney Julius J. Nam, hereby files its sentencing position for defendant LISA KAY CAMP. The government's sentencing position is based upon the attached memorandum of points and authorities, the files and records in this case, the Presentence Investigation Report submitted by the United States Probation Office, and any other evidence or argument that the Court may wish to consider at the time of sentencing.

1 The government respectfully requests the opportunity to
2 supplement its position or respond to defendant as may become
3 necessary.

4 Dated: October 7, 2020

Respectfully submitted,

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1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 **I. INTRODUCTION**

3 On September 23, 2019, defendant Lisa Kay Camp pleaded guilty
4 to Count Five of the five-count Indictment in United States v. Lisa
5 Kay Camp, ED CR 18-200-SVW-1, which charges defendant with
6 conspiracy to commit wire fraud in violation of 18 U.S.C. § 1349.
7 (Dkt. Nos. 80, 88.) In sum, between 2009 and 2013, defendant owned
8 and operated a fraudulent telemarketing business, whose employees
9 made mass marketing calls to victims with false promises of
10 nonexistent job leads that induced the victims to pay for fraudulent
11 background checks that were never conducted. Defendant led,
12 organized, and supervised all her co-defendants and other employees
13 of the telemarketing business. The aggregated amount of monetary
14 loss to victim job seekers incurred by this conspiracy was
15 approximately \$2,181,316.42. For the reasons set forth below, the
16 government recommends a low-end Guidelines sentence of 78 months'
17 imprisonment, a three-year term of supervised release, restitution
18 in the amount of \$2,181,316.42, and a mandatory special assessment
19 of \$100.

20 **II. DEFENDANT'S OFFENSE CONDUCT**

21 From May 2009 through July 30, 2013, in Riverside County,
22 California, defendant and her co-defendants conspired to commit fraud
23 through the use of a telemarketing business that went by "Contractor
24 Management," "Contracting Crews," "Construction Crews," "Trade
25 Crews," "Contractor 411," "Commercial Crews," "US Tradepros," "US
26 Workmen," "IPower Marketing," and "IPower Marketing and Productions,"
27 among others, at different times. (PSR ¶ 13.) Defendant and her co-
28 defendants also owned and controlled "Fed Check," a separate company

1 that purported to conduct background checks. (Id.) Defendant was
2 the owner and operator of the telemarketing business. (PSR ¶ 15.)

3 The telemarketing business defrauded individual victims seeking
4 jobs by making false statements and guarantees, and omitting material
5 information, regarding the telemarketing business's ability and
6 intention to find job leads and work orders. (PSR ¶ 14.) The
7 telemarketing business employed salespersons and used an auto-dialer
8 service to contact prospective job seekers. (PSR ¶ 16.) Using
9 scripts provided by defendant and her co-defendants, the salespersons
10 made false statements and omitted material information to induce the
11 victim job seekers to pay for background check. (Id.) Specifically,
12 under defendant's direction, the telemarketing business, through its
13 websites and salespersons, made the following false statements:

14 telemarketing business had contracts with banks involving bank-owned
15 properties; the telemarketing business or the banks with which it
16 purportedly contracted would provide job leads and work orders to the
17 victim job seekers; and work repairing bank-owned properties was
18 available in each victim job seeker's geographic area. (PSR ¶ 18.)

19 Under defendant's direction, the salespersons of the
20 telemarketing business told each victim job seeker that a background
21 check was required before job leads and work orders could be sent--
22 which a pretext for collecting money from the victim job seekers.
23 (PSR ¶¶ 14, 19.) The telemarketing business then charged each victim
24 job seeker a fee of \$39, \$60, or \$99 for background check, which
25 could be paid over the telephone or on the Internet via the Fed Check
26 website. (Id.) Each victim job seeker was told that if he or she
27 did not pass the background check, the background check fee would be
28 refunded. (PSR ¶¶ 16, 18.) The telemarketing business then kept the

1 background check fee, which was deposited into a bank account
2 controlled by the telemarketing business, without conducting a
3 background check or refunding the fee to the victim job seeker. (PSR
4 ¶¶ 16, 19.) The aggregated amount of monetary loss to victim job
5 seekers over the 4-year period of fraud was approximately
6 \$2,181,316.42. (PSR ¶ 22.)

7 As noted, defendant was the owner and operator of the
8 telemarketing business. (PSR ¶ 15.) She signed the lease agreement
9 for the business location of the telemarketing business in Temecula,
10 California, and used the name "Contractor Management" on the lease.
11 (Id.) She opened and maintained the telemarketing business's bank
12 accounts that received victim monies, and deposited the victims'
13 checks into the bank accounts and withdraw cash for payroll. (Id.)
14 Defendant created a sales pitch that contained numerous lies to
15 induce victim job seekers to pay for a fraudulent background check to
16 be performed by Fed Check. (Id.) The sales pitch claimed that the
17 telemarketing business had contracts with thirty banks for job leads
18 and work orders when in fact there were no such contracts or
19 affiliation with any financial institutions. (Id.) She hired and
20 trained employees of the telemarketing business and supervised all
21 the supervisors (including her co-defendants) and employees of the
22 telemarketing business. (Id.) Supervisors of the telemarketing
23 business, under defendant's direction, would lie to new employees
24 about the fraudulent nature of the telemarketing business, but the
25 employees eventually learned that they were defrauding the victim job
26 seekers and identified defendant as the leader/boss of the fraudulent
27 scheme. (PSR ¶¶ 15, 17.)

1 III. THE PRESENTENCE INVESTIGATION REPORT

2 On December 16, 2019, the United States Probation Office
3 ("USPO") filed its Presentence Investigation Report ("PSR") in this
4 matter. (Dkt. No. 94.) The USPO determined, in large part in
5 accordance with the parties' plea agreement, that:

6 1. defendant's United States Sentencing Guidelines ("USSG" or
7 "Guidelines") base offense level is 7 under USSG §§ 2X1.1(a),
8 2B1.1(a)(1);

9 2. she is subject to a 16-level enhancement for loss more than
10 \$1,500,000 but less than \$3,500,000 under § 2B1.1(b)(1)(I); and

11 3. she is subject to a 2-level enhancement for commission of
12 the offense through mass-marketing under § 2B1.1(b)(2)(A)(ii).¹ (PSR
13 ¶¶ 29-31.)

14 In addition, the USPO determined that defendant is subject to a
15 4-level enhancement for being the organizer/leader of the offense
16 scheme involving five or more participants under USSG § 3B1.1(a), on
17 which the parties have not reached an agreement. (PSR ¶¶ 33-35.)
18 The inclusion of this role enhancement resulted in a combined offense
19 level of 29. (PSR ¶ 37.)

20 After adjusting for a 3-level reduction for acceptance of
21 responsibility, the PSR reached a total offense level of 26. (PSR
22 ¶¶ 39-41.) Defendant has no criminal history, placing her in
23 criminal history category I. (PSR ¶¶ 43-47.) Thus, the USPO
24 identified the applicable Guidelines imprisonment range to be 63 to
25 78 months (Zone D) and the applicable Guidelines range for a
26

27
28 ¹ In the plea agreement, the parties agreed to a two-level
enhancement under the same Guidelines provision (USSG
§ 2B1.1(b)(2)(A)(ii)) for ten or more victims.

supervised release term to be 1 to 3 years. (PSR ¶¶ 80, 82.) The USPO found defendant to be ineligible for probation because the applicable Guidelines range is in Zone D of the Sentencing Table. (PSR ¶ 85.) Further, the USPO identified the applicable Guidelines range for the fine as \$12,500 to \$125,000 pursuant to USSG §§ 5E1.2(c)(3), (h)(1). (PSR ¶ 88.) The USPO determined that "[r]estitution shall be ordered, unless the court finds, from facts on the record, that the number of identifiable victims is so large as to make restitution impracticable." (PSR ¶ 91.) The USPO did not identify any grounds for a departure or a variance. (PSR ¶¶ 94, 95.)

In its disclosed sentencing recommendation letter, the USPO recommended the following: 63 months' imprisonment, a three-year term of supervised release, a waiver of all fines due to defendant's inability to pay, no restitution finding due to a large number of identifiable victims to make restitution practicable, and a mandatory special assessment of \$100. (Dkt. No. 93.)

IV. THE GOVERNMENT'S SENTENCING CALCULATIONS AND RECOMMENDATIONS

Concurring in large part with the USPO's calculations, the government's sentencing calculations are as follows:

Base Offense Level	7	USSG §§ 2X1.1(a), 2B1.1(a)(1)
Loss of Over \$1.5 million		
and up to \$3.5 million	16	USSG § 2B1.1(b)(1)(I)
Ten or More Victims	2	USSG § 2B1.1(b)(2)(A)(i)
Organizer/Leader Role	4	USSG § 3B1.1(a)
Obstruction of Justice	2	USSG § 3C1.1
Acceptance of Responsibility	-3	USSG § 3E1.1
Total Offense Level	28	

1 With a total offense level of 28 and a criminal history category
2 is I, the applicable Guidelines imprisonment range is 78 to 97 months
3 and the applicable Guidelines range for a supervised release term is
4 1 to 3 years.

5 Based on the above calculations and the reasons set forth below,
6 the government respectfully recommends a low-end sentence of 78
7 months' imprisonment, a three-year term of supervised release,
8 restitution in the amount of \$2,181,316.42, and a mandatory special
9 assessment of \$100.

10 **A. "MORE THAN 10 VICTIMS" ENHANCEMENT**

11 In reaching its recommendation, the government disagrees with
12 the USPO's application of the 2-level enhancement for commission of
13 the offense through mass marketing under USSG § 2B1.1(b)(2)(A)(ii).
14 Instead, as stipulated in the plea agreement, the government asks
15 this Court to find that a 2-level enhancement for "more than 10
16 victims" under USSG § 2B1.1(b)(2)(A)(i) is appropriate. While the
17 parties' and the USPO's choices of alternative provisions of
18 § 2B1.1(b)(2)(A) result in the same 2-level enhancement (given that
19 only one of the 2 provisions, but not both, may apply in this case),
20 the government stands by the appropriateness of the parties' agreed-
21 upon Guidelines factor of "more than 10 victims," as "over 3800
22 victim job seekers have been identified" as of the preparation of the
23 PSR. (PSR ¶ 22.)

24 **B. OBSTRUCTION OF JUSTICE ENHANCEMENT**

25 As the Court is well aware, defendant is currently in fugitive
26 status, having absconded on August 8, 2020 while under pretrial
27 supervision and not responded to communications by her supervising
28 officer with the USPO. In response, this Court issued a warrant for

1 defendant on August 11, 2020. (Dkt. No. 128; see also Notice of
 2 Government's Intent to Proceed With In Absentia Sentencing Hearings²
 3 (Dkt. No. 135).) In so doing, defendant has not only violated the
 4 conditions of her bond that requires her to reside as approved by
 5 Pretrial Services and not relocate without permission, but also
 6 committed a new crime of fleeing to avoid prosecution, in violation
 7 of 18 U.S.C. § 1073, which is another violation of his pretrial
 8 release conditions.

9 Although the December 16, 2019 PSR does not address defendant's
 10 absconsion because defendant had not yet fled, the 2-level
 11 obstruction of justice enhancement under USSG § 3C1.1 now applies.
 12 Under USSG § 3C1.1, defendant's flight and absconsion represent
 13 obstruction and impeding of the administration of justice with
 14 respect to defendant's sentencing of her offense of conviction. As
 15 the commentary to § 3C1.1 identifies, "escaping . . . from custody
 16 before trial or sentencing; or willfully failing to appear, as
 17 ordered, for a judicial proceeding" constitutes a "covered conduct"
 18 that justifies the increase in offense level by 2 levels. USSG
 19 § 3C1.1 cmt. n.3. Accordingly, the Court should apply a 2-level
 20 increase of defendant's offense level for obstruction of justice.

21 **C. AGGRAVATING ROLE ENHANCEMENT**

22 The government agrees with the USPO's conclusion that defendant
 23 was an organizer or leader in a criminal scheme that involved five or
 24 more participants, warranting a 4-level enhancement under USSG
 25 § 3B1.1(a). (PSR ¶¶ 33-35.)

27 ² On the obstruction of justice enhancement, the government
 28 incorporates the facts and arguments presented to this Court
 regarding defendant's flight in the Notice of Government's Intent to
 Proceed With In Absentia Sentencing Hearings (Dkt. No. 135).

1 The Ninth Circuit has upheld upward adjustments under § 3B1.1(a)
2 in “cases involv[ing] defendants who, the evidence showed, exercised
3 some degree of control or organizational authority over others.”
4 United States v. Garcia, 497 F.3d 964, 969–70 (9th Cir. 2007)
5 (quoting United States v. Avila, 95 F.3d 887, 890 (9th Cir. 1996)
6 (citing cases)). “Such control or authority over others is required
7 to impose the four-level enhancement under § 3B1.1(a), for it is
8 ‘precisely what distinguishes a leader or an organizer [under
9 § 3B1.1(a)] from a manager or supervisor’ under § 3B1.1(b).” Id.
10 (quoting Avila, 95 F.3d at 890 n.6). An enhancement under
11 §§ 3B1.1(a) or (b) does not require control over all of the five or
12 more participants. See id. “Factors the [sentencing] court should
13 consider include the exercise of decision making authority, the
14 nature of participation in the commission of the offense, the
15 recruitment of accomplices, the claimed right to a larger share of
16 the fruits of the crime, the degree of participation in planning or
17 organizing the offense, the nature and scope of the illegal activity,
18 and the degree of control and authority exercised over others.” USSG
19 § 3B1.1 cmt. n.4. The sentencing court may rely on the PSR to find
20 that a defendant was a leader or organizer and that the criminal
21 activity involved five or more participants. See United States v.
22 Maldonado, 215 F.3d 1046, 1051 (9th Cir. 2000).

23 As noted in the PSR, defendant’s scheme involved at least five
24 criminally charged participants (defendant and her four co-
25 defendants) and numerous other criminal participants. (PSR ¶ 34.)
26 Defendant “was the organizer of the offense as well as a leader in
27 the criminal activity,” which included her central role in which “she
28 owned and operated the telemarketing business; signed the lease

1 agreement for the business location; opened and maintained the
2 telemarketing business's bank accounts and deposited the victims'
3 checks and withdraw cash for payroll from the bank accounts; hired
4 and trained employees of the telemarketing business and supervised
5 all the supervisors (including her co-defendants) and employees of
6 the telemarketing business." (Id.) As further noted in the PSR,
7 defendant admitted during her post-arrest interview with the USPO
8 that she started "Contractor Management," the fraudulent
9 telemarketing business, and handled the training, along with other
10 people who worked for her. (PSR ¶ 24.) Defendant also admitted that
11 she "employed thirty to forty people in total" and "started Fed
12 Check, for which she got a license and bank account." (Id.)

13 The above facts identified by the USPO amply establish that
14 defendant exercised decision-making authority in the multi-year
15 criminal scheme that defrauded thousands of victims, she was
16 intimately involved with in the commission of the offense, she
17 devised, planned, and organized the core, foundational aspects of the
18 fraudulent scheme and trained others to commit fraud, and she
19 exercised control and authority over other members of the scheme.
20 See USSG § 3B1.1 cmt. 4; United States v. Cefaratti, 221 F.3d 502,
21 516 (9th Cir. 2000) (defendant's instruction of others in fraud is
22 relevant conduct supporting role adjustment in overall scheme).
23 Indeed, defendant was "the moving factor behind the entire scheme."
24 United States v. Savage, 67 F.3d 1435, 1443-44 (9th Cir. 1995)
25 (affirming 4-level enhancement under § 3B1.1(a)). The Court should
26 credit the USPO's factual determinations in the PSR and find that a
27 4-level enhancement is warranted under USSG § 3B1.1(a) for
28 defendant's organizer or leader role in her wire fraud scheme.

1 **D. STIPULATED RESTITUTION AMOUNT**

2 The government respectfully asks this Court to order restitution
3 that the parties have stipulated in the plea agreement in the amount
4 of approximately \$2,181,316.42 at the sentencing hearing.

5 The government strongly disagrees with the USPO's determination
6 that "the number of identifiable victims is so large as to make
7 restitution impracticable" (Dkt. No. 93.) That determination,
8 despite the presentation of the list of more than 3,800 victims that
9 the government provided to the USPO prior to the preparation of the
10 PSR, goes against not only the parties' stipulation in the plea
11 agreement that "the applicable amount of restitution is approximately
12 \$2,181,316.42" (Dkt. No. 80 at 5), but also the principle of
13 restitution to identifiable victims that animates the Mandatory
14 Victims Restitution Act ("MVRA"), 18 U.S.C. §§ 3663A, 3664. Since
15 the disclosure of the PSR, the government has provided an updated
16 list of 4,183 victims to whom restitution is owed. That updated is
17 being filed under seal as Exhibit 1 to this sentencing and other
18 sentencing memoranda in this case. (See Notice of Manual Filing and
19 its associated pleadings at Dkt. No. 141.)

20 The "primary and overarching goal" of the MVRA "is to make
21 victims of crime whole, to fully compensate these victims for their
22 losses and to restore these victims to their original state of well-
23 being." United States v. Moreland, 622 F.3d 1147, 1170 (9th Cir.
24 2010). Given that the government has now compiled the list of 4,183
25 identified victim job seekers who were unemployed or underemployed
26 when they were defrauded by defendant's conspiracy and sustained
27 specific financial injuries by defendant and her co-defendants, the
28 Court should order the specific restitution that the parties have

1 agreed to in the amount of \$2,181,316.42 so that the defrauded
2 victims may be made whole. The statute that governs general orders
3 of restitution provides that the Court "may also order restitution in
4 any criminal case to the extent agreed to by the parties in a plea
5 agreement," 18 U.S.C. § 3663, which is precisely what we have here.

6 The PSR incorrectly suggests that because the number of victims
7 is high and defendant's future earning potential is low, restitution
8 "appears impractical" (PSR ¶ 76), but that analysis contravenes the
9 text of the MVRA, which directs the USPO to inform the Court "[if]
10 the number or identity of victims cannot be reasonably ascertained,
11 or other circumstances exist that make this [restitution] requirement
12 clearly impracticable." 18 U.S.C. § 3664. Here, the government has
13 specifically identified 4,183 of defendant's victims, including their
14 names, addresses, and individual loss amounts. (See Exhibit 1 filed
15 under seal.) While the process of returning the restitution amounts
16 to individuals may not be easy, it is far from impracticable. The
17 process will require nothing more than sending letters to the
18 identified victims to provide instructions on reclaiming their
19 losses, which is the same process employed in most other fraud cases
20 involving individual victims in multiple states. As the Ninth
21 Circuit has noted, "[t]he intended beneficiaries of the MVRA's
22 procedural mechanisms are the victims, not the victimizers."
23 Moreland, 622 F.3d at 1171 (citation and internal quotation marks
24 omitted). If restitution is not ordered for the 4,183 identified
25 individual victims for the reasons provided by the USPO, it would be
26 defendant and co-defendants, the victimizers, who will become
27 beneficiaries of the MVRA, which cannot be the intent of the MVRA.

1 Accordingly, the Court should order the stipulated restitution
2 amount of \$2,181,316.42 at the sentencing hearing.

3 **V. ARGUMENT**

4 The Court should sentence defendant to a low-end Guidelines
5 sentence of 78 months' imprisonment, a three-year term of supervised
6 release, restitution in the amount of \$2,181,316.42, and a special
7 assessment of \$100. This sentence is sufficient, but not greater
8 than necessary, to meet the sentencing goals set forth in 18 U.S.C.
9 § 3553(a).³

10 **A. LEGAL STANDARD**

11 While not definitive, the Guidelines range provides the starting
12 point for finding a reasonable sentence and must then be considered
13 with the factors set forth in Section 3553(a). See United States v.
14 Cantrell, 433 F.3d 1296, 1279 (9th Cir. 2006). "To comply with the
15 requirements of Booker, the district court must have sufficiently
16 considered the Guidelines as well as the other factors listed in
17 § 3553(a). This requirement does not necessitate a specific
18 articulation of each factor separately, but rather a showing that the
19 district court considered the statutorily-designated factors in
20 imposing a sentence." United States v. Nichols, 464 F.3d 1117, 1125
21 (9th Cir. 2006) (citation omitted).

22 ///

24 ³ The discussion in this section of how the § 3553(a) factors
25 apply in this case is meant to support the government's request for a
26 low-end sentence of 78 months' imprisonment, which represents a
27 significant term of imprisonment requiring a correspondingly
28 substantial justification. The government also anticipates that
defendant will request a sentence of less than 65 months'
imprisonment. Nothing in this sentencing position should be
construed as recommending or suggesting that a sentence of more than
78 months is appropriate under the § 3553(a) factors.

1 **B. DEFENDANT'S OFFENSE AND PERSONAL HISTORY, § 3553(A)(1)-(2)**

2 Over more than four years, defendant orchestrated a scheme to
3 defraud tens of thousands of individuals from across the United
4 States and caused more than \$2.1 million in aggregated losses from
5 the victims. (PSR ¶ 22.) She directed her co-defendants and others
6 in executing the scheme, which deceived unsuspecting unemployed and
7 underemployed members of the public into paying \$99 that resulted in
8 no job leads. Defendant exploited individuals in most vulnerable
9 financial situations who were looking to make an honest living.
10 Through empty promises of employment opportunities and elaborate
11 processes of fraud, defendant deprived victims of the little money
12 they had.

13 At the same time, the government notes that defendant has fully
14 accepted responsibility for her offense, and she does not have any
15 criminal history. Defendant appears to have had a difficult
16 upbringing and challenging mental and physical health history, having
17 been abused multiple times by others she trusted. (PSR ¶¶ 52-56.)
18 She continues to suffer from multiple physical ailments that require
19 medical treatment. (PSR ¶¶ 62-65.)

20 Upon balancing the seriousness of defendant's offense against
21 the difficulties that defendant has faced and endured, the government
22 believes that the recommended custodial sentence of 78 months at the
23 low end of the applicable Guidelines range is appropriate and just.

24 **C. RESPECT FOR THE LAW, PROTECTION OF COMMUNITY, DETERRENCE,**
25 **AND AVOIDANCE OF UNWARRANTED DISPARITIES, § 3553(A)(3)-(7)**

26 A low-end sentence of 78 months will also serve to protect the
27 community from further crimes by defendant, afford adequate specific
28 and general deterrence, and promote respect for the law. Defendant's

1 deployment of an elaborate fraud scheme involving multiple family
2 members and others employees suggests that she has a greatly
3 underdeveloped respect for the law. Her role in the fraud scheme
4 involved thousands of individual decisions over the course of at
5 least 4 years. During this period, defendant and her co-defendants
6 were essentially making their living by committing fraud. Thus, a
7 substantial period of custodial sentence, which the low-end sentence
8 of 78 months would provide, is necessary to protect the community
9 from defendant and promote law and justice.

10 In addition, the Court should minimize sentencing disparities
11 among similarly-situated defendants by imposing a within-Guidelines
12 low-end sentence. Using the correctly calculated sentencing
13 guidelines as a starting point for sentencing helps accomplish this
14 goal. See, e.g., United States v. Treadwell, 593 F.3d 990, 1011-12
15 (9th Cir. 2010). Since the government's requested sentence is within
16 the applicable Guidelines range, such a sentence would avoid
17 unwarranted sentencing disparities among similarly-situated
18 defendants.

19 **V. CONCLUSION**

20 The government respectfully recommends that the Court impose a
21 sentence of 78 months' imprisonment, a three-year period of
22 supervised release, restitution in the amount of \$2,181,316.42, and a
23 mandatory special assessment of \$100.